

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION, *et al.*,

Plaintiffs,

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FEDERAL BUREAU OF INVESTIGATION,
UNITED STATES DEPARTMENT OF JUSTICE.

Defendants.

)
)
) Civ. A. No. 1:05-CV-1004 (ESH)
)
) Judge Ellen S. Huvelle
)
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)
)

SECOND DECLARATION OF ANTHONY J. COPPOLINO

I, ANTHONY J. COPPOLINO, do hereby state and declare as follows:

1. I am Special Litigation Counsel for the Department of Justice, Civil Division, Federal Programs Branch, and have been a trial attorney with the Justice Department since October 31, 1988. I am lead counsel for the Defendants in this action. I submit this second declaration in support of Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment and Defendants' Motion for an *Open America* Stay. The statements herein are based on my personal knowledge and information obtained in the course of my official duties.

2. Attached hereto as Exhibit N are true and correct copies of four press releases issued by the American Civil Liberties Union and three of its affiliates (Iowa, Oregon, and Northern California) which I downloaded from the ACLU's internet web site. All of the press releases are dated December 2, 2004, and describe the FOIA requests submitted by the ACLU and its affiliates to the Federal Bureau of Investigation on that date.

I declare under penalty of perjury that the foregoing is true and correct.

Date: July 27, 2005


ANTHONY J. COPPOLINO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION, *et al.*,

Plaintiffs,

V.

FEDERAL BUREAU OF INVESTIGATION,
UNITED STATES DEPARTMENT OF JUSTICE,

Defendants.

Civ. A. No. 1:05-CV-1004 (ESH)

Exhibit N to Second Coppolino Declaration



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URL: <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=17111&c=206>

ACLU Launches Nationwide Effort to Expose Illegal FBI Spying on Political and Religious Groups December 2, 2004

WASHINGTON - Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union and its affiliates today filed multiple Freedom of Information Act requests around the country to uncover who is being investigated and why.

FOR IMMEDIATE RELEASE

Contact: media@aclu.org

WASHINGTON - Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union and its affiliates today filed multiple Freedom of Information Act requests around the country to uncover who is being investigated and why.

"The FBI is wasting its time and our tax dollars spying on groups that criticize the government, like the Quakers in Colorado or Catholic Peace Ministries in Iowa," said ACLU Associate Legal Director Ann Beeson. "Do Americans really want to return to the days when peaceful critics become the subject of government investigations?"

As a first step, the groups today filed Freedom of Information Act (FOIA) requests in 10 states and the District of Columbia seeking information about the FBI's use of Joint Terrorism Task Forces and local police to engage in political surveillance. The FOIAs seek two kinds of information: 1) the actual FBI files of groups and individuals targeted for speaking out or practicing their faith; 2) information about how the practices and funding structure of the task forces, known as JTTFs, are encouraging rampant and unwarranted spying.

JTTFs are legal partnerships between the FBI and local police, in which local officers are "deputized" as federal agents and work in coordination with the FBI to identify and monitor individuals and groups. While their purpose is to investigate terrorism, they have targeted peaceful political and religious groups with no connection to terrorism.

The ACLU's clients comprise a Who's Who of national and local advocates for well-known causes, including the environment, animal rights, labor, religion, Native American rights, fair trade, grassroots politics, peace, social justice, nuclear disarmament, human rights and civil liberties. Requests were also filed on behalf of numerous individuals, including an organizer for Service Employees International Union, a former Catholic priest, and student activists.

The requests were filed by the national ACLU as well as its affiliates in Colorado, Illinois, Iowa, Michigan, and Oregon. The national ACLU FOIA names the central FBI agency as well as bureaus in New York, Washington, D.C., California, Michigan, Virginia, and Massachusetts. Additional ACLU affiliates are expected to file another round of FOIA requests in early 2005.

Over the past few years, ACLU attorneys around the country have provided direct representation to many individuals and organizations targeted for exercising their First Amendment right to criticize the government, including people who participated in numerous rallies and marches to protest the war in Iraq, who were excluded from meaningful participation at public presidential speeches, and who protested at the 2004 Republican and Democratic National Conventions.

"We all want the police to protect us from real criminals and terrorists," Beeson said. "But resources and funds established to fight terrorism should not be misused to target innocent Americans who have done nothing more than speak out or practice their faith. Investigations should be based on actual evidence of wrongdoing."

In its FOIA requests, the ACLU points to many documented examples of JTTF involvement in the investigation of environmental activists, anti-war protesters, and others who are clearly not terrorists nor involved in terrorist activities, including:

- infiltrating student peace activists and tracking down their parents
- gathering files on Americans Friends Service Committee anti-war events
- interrogating animal rights activists in their homes
- sending undercover agents to National Lawyers Guild meetings
- aggressively questioning Muslims and Arabs on the basis of religion or national origin rather than suspicion of

wrongdoing

These activities are not the only evidence that the FBI is building files on activists. A classified FBI intelligence memorandum disclosed publicly last November revealed that the FBI has actually directed police to target and monitor lawful political demonstrations under the rubric of fighting terrorism. See <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=14452&c=207>.

The ACLU of Northern California and the ACLU of New Jersey have both filed lawsuits on related FBI and police spying issues.

For details and documents regarding the FOIA requests filed today by the ACLU around the country, including a list of clients, go to www.aclu.org/spyfiles.

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URL: <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=17117&c=206>

ACLU Launches Nationwide Effort to Expose Illegal FBI Spying on Political and Religious Groups
December 2, 2004

DES MOINES – Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union and its affiliates in Iowa and other states today filed multiple Freedom of Information Act (FOIA) requests around the country to uncover who is being investigated and why.

FOR IMMEDIATE RELEASE
Contact: media@aclu.org

In Iowa, ICLU Seeks Disclosure of Surveillance Records of Both Federal and State Law Enforcement

DES MOINES – Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union and its affiliates in Iowa and other states today filed multiple Freedom of Information Act (FOIA) requests around the country to uncover who is being investigated and why.

"The FBI is wasting its time and our tax dollars spying on groups that criticize the government, like the Quakers in Colorado or Catholic Peace Ministries in Iowa," said ACLU Associate Legal Director Ann Beeson. "Do Americans really want to return to the days when peaceful critics become the subject of government investigations?"

Ben Stone, Executive Director of the Iowa Civil Liberties Union, said that the ICLU is involved because of what the U.S. Attorney's office did to Des Moines peace activists in February of this year.

"Ten months ago, citizens subpoenaed by the government courageously stood in the public square in an effort to convey to the world that they would not be intimidated," Stone said. "In the face of their resistance, the U.S. Attorney backed down. The ICLU's filing today of FOIA, privacy act, and open records requests on behalf of our clients represents the next step in our struggle to defend the right of free speech against government intimidation," he added.

The requests were filed by the national ACLU as well as its affiliates in Colorado, Illinois, Iowa, Michigan, and Oregon. The national ACLU FOIA names the central FBI agency as well as bureaus in New York, Washington, D.C., California, Michigan, Virginia, and Massachusetts. Additional ACLU affiliates are expected to file another round of FOIA requests in early 2005.

As a first step, the groups today filed Freedom of Information Act requests seeking information about the FBI's use of Joint Terrorism Task Forces and local police to engage in political surveillance. The FOIAs seek two kinds of information: 1) the actual FBI files of groups and individuals targeted for speaking out or practicing their faith; 2) information about how the practices and funding structure of the task forces, known as JTTFs, are encouraging rampant and unwarranted spying.

JTTFs are legal partnerships between the FBI and local police, in which local officers are "deputized" as federal agents and work in coordination with the FBI to identify and monitor individuals and groups. While their purpose is to investigate terrorism, they have targeted peaceful political and religious groups with no connection to terrorism.

The ACLU's clients comprise a Who's Who of national and local advocates for well-known causes, including the environment, animal rights, labor, religion, Native American rights, fair trade, grassroots politics, peace, social justice, nuclear disarmament, human rights and civil liberties. Requests were also filed on behalf of numerous individuals, including an organizer for Service Employees International Union, a former Catholic priest, and student activists.

In Iowa, the clients include Brian Terrell, Elton Davis, Frank Cordaro, Wendy Vasquez, and Sally Frank, as well as the Drake Chapter of the National Lawyers Guild (NLG), the Des Moines Catholic Workers, and the Catholic Peace Ministry.

Among these clients, peace activists Terrell, Davis and Vasquez were individually served with subpoenas in February, while the Drake Chapter of the National Lawyers Guild was the subject of a subpoena served on Drake University. Sally

Frank, a professor of law at Drake Law School, advises the NLG chapter there. Cordaro, a former Catholic priest, is a well-known anti-war activist with a long history of nonviolent, civil disobedience.

Over the past few years, ACLU attorneys around the country have provided direct representation to many individuals and organizations targeted for exercising their First Amendment right to criticize the government, including people who participated in numerous rallies and marches to protest the war in Iraq, who were excluded from meaningful participation at public presidential speeches, and who protested at the 2004 Republican and Democratic National Conventions.

"We all want law enforcement to protect us from real criminals and terrorists," Beeson said. "But resources and funds established to fight terrorism should not be misused to target innocent Americans who have done nothing more than speak out or practice their faith. Investigations should be based on actual evidence of wrongdoing."

In its FOIA requests, the ACLU points to many documented examples of JTTF involvement in the investigation of environmental activists, anti-war protesters, and others who are clearly not terrorists nor involved in terrorist activities, including:

- tracking down parents of student peace activists
- downloading anti-war action alerts from Catholic Peace Ministries · infiltrating student groups
- sending undercover agents to National Lawyers Guild meetings
- aggressively questioning Muslims and Arabs on the basis of religion or national origin rather than suspicion of wrongdoing

These activities are not the only evidence that the FBI is building files on activists. A classified FBI intelligence memorandum disclosed publicly last November revealed that the FBI has actually directed police to target and monitor lawful political demonstrations under the rubric of fighting terrorism. See <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=14452&c=207>.

For details and documents regarding the FOIA requests filed today by the ACLU around the country, including a list of clients, go to www.aclu.org/spyfiles.

For background info and documents regarding the Drake protesters subpoena story, including a leaked FBI memo from Oct 2003 instructing local law enforcement to monitor peace groups, go to the ICLU's website at: <http://www.iowaclu.org>.

[click on "Documents" at the top of the page; also a narrative story of what happened in February can be found in the "Our Newsletter" section (Feb. 2004 edition)].

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FOR IMMEDIATE RELEASE: December 2, 2004

**PRESS CONTACT: Stella Richardson, ACLU-NC 415-621-2493
Emily Whitfield, ACLU, 212-549-2566 or 2666**

ACLU LAUNCHES NATIONWIDE EFFORT TO EXPOSE FBI SPYING ON POLITICAL AND RELIGIOUS GROUPS

WASHINGTON - Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union and its affiliates today filed multiple Freedom of Information Act requests around the country to uncover who is being investigated and why. The FOIA requests were filed only weeks after the ACLU of Northern California filed a lawsuit seeking expedited disclosure of documents on the activities of the FBI's local Joint Terrorism Task Forces (JTTFs).

"When we first requested the documents about JTTF operations in Northern California, the FBI stalled by claiming there was 'no particular urgency' to our request," said ACLU of Northern California attorney John Crew. "When we filed a lawsuit challenging their stalling tactics, the FBI refused to comment. As this national campaign shows, the ACLU is going to vigorously fight the government's efforts to keep the public in the dark about local law enforcement intelligence gathering efforts, not only in Northern California but throughout the country."

"The FBI is wasting its time and our tax dollars spying on groups that criticize the government, like the Quakers in Colorado or Catholic Peace Ministries in Iowa," said national ACLU Associate Legal Director Ann Beeson. "Do Americans really want to return to the days when peaceful critics become the subject of government investigations?"

As a first step, the groups today filed Freedom of Information Act (FOIA) requests in 10 states and the District of Columbia seeking information about the FBI's use of Joint Terrorism Task Forces and local police to engage in political surveillance. The FOIAs seek two kinds of information: 1) the actual FBI files of groups and individuals targeted for speaking out or practicing their faith; 2) information about how the practices and funding structure of the task forces, known as JTTFs, are encouraging rampant and unwarranted spying.

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The requests were filed by the national ACLU as well as its affiliates in Colorado, Illinois, Iowa, Michigan, and Oregon. The national ACLU FOIA names the central FBI agency as well as bureaus in New York, Washington, D.C., California, Michigan, Virginia, and Massachusetts. Additional ACLU affiliates are expected to file another round of FOIA requests in early 2005.

"We all want law enforcement to protect us from real criminals and terrorists," Beeson said. "But resources and funds established to fight terrorism should not be misused to target innocent Americans who have done nothing more than speak out or practice their faith. Investigations should be based on actual evidence of wrongdoing."

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DOCUMENTS

- For details and legal papers regarding the FOIA requests filed today by ACLU affiliates around the country, including a list of clients, go to www.aclu.org/spyfiles.
- For a copy of the ACLU-NC FOIA press release and lawsuit visit <http://aclunc.org/pressrel/041021-foia.html>

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URL: <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=17113&c=206>

Oregon Joins Nationwide ACLU Effort to Expose Illegal FBI Spying on Political and Religious Groups
December 2, 2004

PORTLAND, OR - Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups elsewhere in the country, the American Civil Liberties Union of Oregon today filed a Freedom of Information Act (FOIA) request with the Portland Division of the FBI that is designed to uncover whether political and religious spying is also occurring here in Oregon.

FOR IMMEDIATE RELEASE

Contact: media@aclu.org

PORTLAND, OR - Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups elsewhere in the country, the American Civil Liberties Union of Oregon today filed a Freedom of Information Act (FOIA) request with the Portland Division of the FBI that is designed to uncover whether political and religious spying is also occurring here in Oregon.

"It is now beyond dispute that FBI Joint Terrorism Task Forces have been used to systematically spy on the lawful political and religious activities of individuals and organizations," said Oregon ACLU Executive Director David Fidanque. "Unfortunately, most of this activity has occurred under a cloak of secrecy so we don't know how much of it is occurring in Oregon."

The Oregon request is one of nearly a dozen FOIA requests filed around the country today by the National ACLU and its affiliates seeking information about the FBI's use of Joint Terrorism Task Forces and local police to engage in political surveillance.

"The FBI is wasting its time and our tax dollars spying on groups that criticize the government, like the Quakers in Colorado or Catholic Peace Ministries in Iowa," said ACLU Associate Legal Director Ann Beeson. "Do Americans really want to return to the days when peaceful critics become the subject of government investigations?"

All of the FOIAs seek information on the actual FBI files of groups and individuals suspected of being targeted by the FBI for speaking out or practicing their faith. In addition, National ACLU has filed a separate request seeking information about how the practices and funding structure of the FBI task forces, known as JTTFs, are encouraging rampant and unwarranted spying.

Fidanque noted that Oregon law prohibits state and local police from collecting or maintaining files on the political, religious or social activities of individuals or organizations unless there is evidence of criminal activity.

"We have been working for several years to shed more light on the practices of the FBI's Portland Joint Terrorism Task Force and the FBI has stonewalled us and local public officials who have asked questions," Fidanque said. "The FBI has denied it is targeting people because of their political or religious views, but they refuse to allow any civilian authorities, such as the Portland City Attorney, to have access to their work or files. The public has a right to know whether the types of abuses we've seen elsewhere are also happening in Oregon."

Fidanque said that renewal of the City of Portland's participation in the local FBI JTTF will be considered by the Portland City Council on December 22. He said that ACLU has asked for expedited consideration of its FOIA request.

Among the organizations included in the Oregon ACLU request are Portland Peace and Justice Works, the Portland Peaceful Response Coalition, the Oregon Wildlife Federation, the American Friends Service Committee, In Defense of Animals, the Islamic Center of Portland and the ACLU of Oregon itself.

In addition to the Oregon and National ACLU FOIA requests, ACLU affiliates in Colorado, Illinois, Iowa, and Michigan have filed similar requests. Additional ACLU affiliates are expected to file another round of FOIA requests in early 2005.

Over the past few years, ACLU attorneys around the country have provided direct representation to many individuals and organizations targeted for exercising their First Amendment right to criticize the government, including people who participated in numerous rallies and marches to protest the war in Iraq, who were excluded from meaningful participation at public presidential speeches, and who protested at the 2004 Republican and Democratic National Conventions.

"We all want police to protect us from real criminals and terrorists," Beeson said. "But resources and funds established to fight terrorism should not be misused to target innocent Americans who have done nothing more than speak out or practice their faith. Investigations should be based on actual evidence of wrongdoing."

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More information on the Oregon ACLU FOIA request can be found at: www.aclu-or.org.

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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2005, the foregoing *Second Declaration of Anthony J. Coppolino and attachments* was filed electronically and served by means of the Court's ECF notice system, see Local Rule 5.4(d)(1), on:

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/s/ Anthony J. Coppolino
ANTHONY J. COPPOLINO